

CONTRACT FOR Appeals & Related Services

This contract is entered into this 15 day of May 2007, by and between the County Assessor of Fayette County, Indiana, hereinafter referred to as the "Assessor", and Nexus Group, Inc. of Indianapolis, Indiana, hereinafter referred to as "Contractor."

RECITALS

- A. The Assessor has determined that Fayette County should employ the Contractor as a technical advisor pursuant to the provisions of Indiana Code § 6-1.1-4-17 for the purpose of reviewing 2006 real property appeals;
- B. The Assessor has received bid(s) according to the provisions of Indiana Code § 6-1.1-4-18.5 and fulfilled all other statutory conditions precedent to the employment of a technical advisor;
- C. The Assessor wishes to contract with the Contractor and the Contractor is willing to be contracted by the Assessor;
- D. The Contractor is a Professional Appraiser as the term is defined in Indiana Code § 6-1.1-4-17(c) and Indiana Code § 6-1.1-31.7;
- E. This Contract is subject to the provisions of 50 IAC 15, and the Contractor will comply with the provisions of 50 IAC 15 in connection with this Contract;
- F. The Department of Local Government Finance shall be known in this Contract as "the Department."

AGREEMENT

In consideration of the premises, mutual covenants and obligations of the parties, the Assessor and Contractor agree as follows:

ARTICLE 1. INCORPORATION OF RECITALS.

The foregoing recitals are adopted by the parties as being true and accurate statements, and are hereby incorporated as binding representations of this Agreement.

ARTICLE 2. DUTIES OF THE CONTRACTOR.

- (a) The Contractor shall provide technical assistance to the Assessor in connection with the hearing of all 2006 real property appeals as well as informal meeting with selected commercial / industrial taxpayers, as requested and assigned by the authorized designate of the Assessor, under the terms and provisions of this Contract, in accordance with and furtherance of all rules governing annual adjustments and the assessment of real property promulgated by the Department, and all other applicable laws, statutes, ordinances, or administrative rules. These duties and deliverables are further specified in Attachment 1 to this Agreement.
- (b) The class(es) of property to be reviewed by the Contractor under this Contract are limited to: all real property appeals.
- (c) For the classes of property listed in Article 2(b) of this Agreement the Contractor will complete all responsibilities of the Assessor created under Indiana Code § 6-1.1-4-4.5 and 50 IAC 21 regarding annual adjustments and the completion of required ratio studies, unless specifically

retained by the Assessor and listed in Article 3 of this Agreement, including but not limited to:

- (1) Use a valuation date of January 1 of the year preceding the year of the assessment date.
- (2) Use verified sales, cost and/or income information for applicable dates. Further, the Contractor shall utilize any and all methods of establishing market value-in-use as outlined by 50 IAC 21.

(3) In accordance with the agreed on time schedule between the Contract Representative and the Contractor, the Contractor shall submit to the Assessor all parcel data in the specified formats as required by Indiana Code § 6-1.1-4-25 to be utilized by the Department in accordance with Indiana Code § 6-1.1-33.5-3.

(4) If the Contractor modifies parcel characteristics in any way, the Contractor agrees to generate complete parcel characteristics and parcel assessment data in a manner and format acceptable to the Department and the Legislative Services Agency. If the Contract does not modify parcel characteristics, the Assessor remains responsible for generating complete parcel characteristics and parcel assessment data in a manner and format acceptable to the Department and the Legislative Services Agency.

(d) All direct assessment activities must be performed by a level two assessor-appraiser certified under Indiana Code § 6-1.1-35.5. All work performed under this Contract must be organized, supervised and reviewed by a level two assessor-appraiser certified under Indiana Code § 6-1.1-35.5. Additionally, a level two assessor-appraiser certified under Indiana Code § 6-1.1-35.5 must personally fulfill all assessing functions under this Agreement.

ARTICLE 3. RESPONSIBILITIES OF THE ASSESSOR.

The Contractor will not be responsible for the following duties contained in 50 IAC 21:

- (1) If any annual adjustment is applied, send notices of assessment to each affected taxpayer pursuant to Indiana Code § 6-1.1-4-22(a);
- (2) printing and mailing of Form 11's or other assessment notifications;
- (3) provision of parcel characteristic data in a format (database, spreadsheet, etc.) acceptable to the Contractor;
- (4) provision of plat maps, GIS maps and similar.

ARTICLE 4. CONSIDERATION

The Assessor shall pay the Contractor a fee of \$10,000.00 in full payment for the complete performance of all duties, responsibilities and activities set out in this Contract and on the work plan mutually agreed to under Article 8 of this Agreement to be attached as Attachment 1. This amount to be due and payable upon completion of all duties hereunder.

ARTICLE 5. TERM OF CONTRACT & EXTENSION.

- (a) The Contractor shall commence work under this Contract within 10 business days of the date of execution of this Contract.
- (b) The Contractor shall complete all work to be performed under this Contract, other than assistance required in regard to an appeal filed under Indiana Code § 6-1.1-15, based on a written schedule agreeable to the Contract Representative and the Contractor.

ARTICLE 6. PROFESSIONAL APPRAISER CERTIFICATION; CONTRACT VOID UPON REVOCATION.

(a) The Contractor must be certified as a professional appraiser" under Indiana Code § 6-1.1-31.7 in order to enter into this Contract. The Contractor represents and warrants that he/she is certified as a "professional appraiser" under Indiana Code § 6-1.1-31.7 at the time of entering into this Contract; and will take all steps necessary to remain certified as a "professional appraiser" under Indiana Code § 6-1.1-31.7 through the term of this Contract.

(b) In accordance with Indiana Code § 6-1.1-31.7-4, this Contract is void and the Contractor may not receive additional funds under this Contract if the Contractor's certification as a "professional appraiser" under Indiana Code § 6-1.1-31.7 is revoked.

ARTICLE 7. CONTRACT REPRESENTATIVE.

The Assessor shall designate a Contract Representative to serve as the primary contact person under the Contract. The Assessor shall notify the Contractor of the designation.

ARTICLE 8. WORK PLAN.

The Contractor shall complete all duties hereunder within sixty (60) days after the final date for the submission of 2006 real property appeals as determined by the mailing date of FORM 11 notices and/or tax bills.

ARTICLE 9. CONTRACT REPORTS AND MONITORING.

The Contractor shall be required to provide written progress reports to the Assessor in a form reasonably prescribed by the Assessor. The reports must include the number and/or type of parcels being reviewed by the Contractor (appeals database) and the status of the work being done. The Assessor may require that additional information be included in the reports. The Contractor shall submit the reports to the Contract Representative at least every sixty (60) days during the term of this Agreement, or more frequently as conditions merit.

The Contract Representative shall immediately forward a copy of each report to the Assessor. The Assessor may at all times inspect the records of the Contractor to verify the progress and evaluate the quality of work performed. The Assessor may accompany the Contractor's personnel in their assigned duties to assure the Contractor's adherence with contractual specifications and approved procedures. The Contractor shall extend its full cooperation to the Contract Representative by providing access to all program related records, and by making personnel available upon request for the purpose of monitoring quality, performance and progress.

ARTICLE 10. TIME AND MANNER OF PAYMENT.

The Contractor shall be paid the full sum of \$10,000.00 upon mutual satisfaction of both parties that all contract deliverables have been met. All payments are payable if the Contract Representative approves the work to date based on the work plan and subject to full compliance with all other obligations under this Contract. Approval shall be based on the progress reports submitted by the Contractor and on the Contract Representative's inspection of the Contractor's assessment records. Payment shall be made to the Contractor within thirty (30) days after approval

by the Contract Representative.

If all work is not completed under this Contract by the completion date specified in Article 5 of this Agreement or if all required data is not submitted to the Department in the appropriate format in a timely manner, then all further payments will be suspended at that time until all work has been satisfactorily completed and approved by the Contract Representative and as otherwise required under this Contract. Payments of the suspended amount will be made to the Contractor within days after that approval by the Contract Representative.

ARTICLE 11. PENALTIES.

Payments due under this Contract shall be reduced by the amount of \$100.00 per business day that any part of the Contractor's duties remains incomplete after any due date specified hereunder.

ARTICLE 12. RESPONSIBILITIES.

The final determination of assessed values are and shall remain the responsibility of the Assessor.

ARTICLE 13. NON-DISCRIMINATION.

Pursuant to Indiana Code § 22-9-1-10, the Contractor and its subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Contract, with respect to the individual's hire, tenure, terms, conditions, or privileges of employment, because of the individual's race, color, religion, sex, handicap, national origin or ancestry. Breach of this covenant may be regarded as a material breach of contract.

ARTICLE 14. GENERAL PROVISIONS.

(a) This Contract sets forth the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior oral and written agreements and understanding between the Assessor and the Contractor. No representation, promise, inducement, or statement of intention has been made by either party which is not set forth in this Contract and neither party shall be bound by or liable for any alleged representation, promise, inducement or statement of intention not so set forth.

(b) No waiver, alteration, modification, or cancellation of any of the provisions of this Contract shall be binding unless made in writing and signed by all those signing this Contract, or his or her successors in office. The failure of either party at any time or times to require performance of any provisions of this agreement shall not be considered a waiver and will in no 1-nanner affect the right at a later time to enforce that provision.

(c) In the event that one or more of the provisions contained in this Contract shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions contained in this Contract. If any provisions contained in this Contract shall for any reason be held to be excessively broad as to duration, geographical scope, activity or subject, it shall be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it then shall appear.

(d) This Contract shall be subject to and interpreted in accordance with the law of the State of Indiana and suit, if any, shall be brought in Indiana courts.

(e) This Contract shall be binding upon and inure to the benefit of the parties and their respective

successors, assigns and legal representatives, provided, however, that this Contract is not binding upon a successor to the elected office of an undersigned Assessor without the successor's prior written consent, nor can the rights, duties, and privileges of the Contractor under this contract be transferred, sublicensed or assigned by it, either in whole or in part, without the prior written consent of the Assessor.

ARTICLE 15. DELAYS.

Whenever the Contractor or the Assessor have knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, they shall within five days provide written notice of the delay to the other party by certified mail, return receipt requested, including all relevant information with respect to the actual or potential cause of the delay. In the event of a delay by the Department, legislative action or court ruling, the Assessor reserves the right to re-negotiate all terms of the Contract including costs.

ARTICLE 16. TERMINATION.

The Assessor may terminate this Contract, if he or she determines that the Contractor has failed to make satisfactory progress toward performance. In such case, the Assessor will transmit a written Notice of the Default and termination to the Contractor fifteen days prior to the proposed termination date, and the Contractor shall be given ten business days in which to remedy the condition which has caused the Termination Notice, or suffer termination.

The Contractor shall continue Contract performance to the extent not terminated under the provisions of the above paragraph and shall be compensated for its performance pursuant to an agreement of the parties.

In the event the Assessor terminates this Contract, in whole or in part as provided in this section, the Assessor may procure, upon such terms and in such manner as he or she may deem appropriate, services similar to those so terminated at their own expense. The Assessor may request and the Contractor may acquire a performance bond, at an additional expense to the County to defray the expense of remediating any and all failures of the Contractor in the performance of the duties assigned hereunder.

ARTICLE 17. APPEALS.

The Contractor shall provide five (5) Person Days for support of values after mailing of Notices of Assessment (Form 11's), utilizing personnel familiar with the entire annual adjustment process, including re-inspection of property or explanation of ratio studies as may be needed. These duties shall be performed by a competent Indiana State Certified Level II Assessor/Appraiser. Days required above those specified shall be provided at the written request of the Assessor at a rate of \$750 per Person Day. Additional Person Days for support of assessments at the PTABOA level, Indiana Board of Tax Review (IBOTR) level and similar shall incur the specified daily rate charge. This duty of the Contractor shall terminate when all appeals have been resolved.

If an assessed value and/or annual adjustment factor recommended by the Contractor is appealed to any reviewing body, the Contractor or its employee or representative shall, if at least 10 business days notice is given to the Contractor, appear at any hearing scheduled on the appeal of the parcel to explain its calculations and defend the recommendation. A fee of \$750 per Person Day or part thereof shall be paid to the Contractor for services rendered in connection with the assistance on the appealed parcel over and beyond the above stated Non-Consecutive Person Days. This duty of the

Contractor shall terminate when all appeals have been resolved.

ARTICLE 18. INDEPENDENT CONTRACTOR

In the performance of this Contract. Contractor will be acting in an individual capacity and not as an agent, employee, partner, joint venturer or associate of the Assessor. The employees or agents of the Contractor shall not be deemed or construed to be the employees or agents of the Assessor for any purpose whatsoever.

ARTICLE 19. LIABILITY.

The Contractor agrees to indemnify, defend, and hold harmless the Assessor and his or her township and county. and all agents, officers and employees of those townships and that county, from all claims and suits including, court costs, attorney's fees, and other expenses, caused by any act or omission of the Contractor and/or its subcontractors, in connection with this Contract.

ARTICLE 20. SUBCONTRACTING.

The Contractor must obtain the prior written approval of the Contract Representative before subcontracting all or any portion of this Contract. This limitation shall not apply to the purchase of standard commercial supplies or raw materials.

If subcontractors are used, the Contractor is responsible for contract performance, compliance with terms and conditions of this Contract, and the requirements of federal and state equal opportunity and affirmative action statutes, rules and regulations.

ARTICLE 21. FORCE MAJEURE.

Neither party shall be liable for delays or performance failures resulting from and caused by acts beyond the party's control. Such acts shall include acts of God, acts of war, epidemics, communication line failures, power failures, earthquakes, and other similar disasters. In every case, the delays must be beyond the control and without the fault or negligence of the non-performing party.

ARTICLE 22. MAINTAINING A DRUG-FREE WORKPLACE.

Contractor hereby covenants and agrees to make a good faith effort to provide and maintain during the term of this Contract a drug-free workplace, and that it will give written notice to the Assessor within ten (10) days after receiving actual notice that an employee of the Contractor has been convicted of a criminal drug violation occurring in Contractor's workplace in addition to the provisions of the above, if the total contract amount set forth in this Contract is in excess of \$25,000.00, Contractor further agrees that this Agreement is expressly subject to the terms, conditions and representations contained in the Drug-Free Workplace certification executed by Contractor in conjunction with this Contract and which is appended as an Attachment to this Agreement. It is further expressly agreed that the failure of Contractor to in good faith comply with the terms of the above, or falsifying or otherwise violating the terms of the certification referenced above shall constitute a material breach of this Contract, and shall entitle the Assessor to impose sanctions against Contractor including, but not limited to, suspension of contract payments,

termination of this Contract and/or debarment of Contractor from doing further business with the County for up to three (3) years.

ARTICLE 23. CONFIDENTIAL NATURE OF APPRAISAL DATA

The Contractor shall assure that no individual on the Contractor's staff shall disclose any appraisal information to any individual, firm or corporation other than appropriate public officials and their authorized agents. Any data, which is to be released, shall be provided to the Assessor who shall provide for its release. However, the Department and the Legislative Services Agency shall have unrestricted access to the Contractor's work product under this Agreement.

ARTICLE 24. IDENTIFICATION.

All field personnel involved with the completion of this Agreement shall carry identification cards, which will include a photograph of the individual and the County Assessor's signature. All automobiles used by field personnel shall be marked appropriately and registered with County Sheriffs office, with local police departments located within the county, and with the County Assessor's office.

ARTICLE 25. WORK PRODUCT DELIVERY.

The Contractor shall be responsible for the delivery of the following products to the Assessor at the completion or termination of this Agreement:

- (1) Documentation of procedures used throughout the reassessment program;
- (2) Any and all training materials and manuals used to train the Contractor's staff;
- (3) All field worksheets for each parcel of real property;
- (4) All maps and/or other information provided for the Contractor by the Assessor;
- (5) All information gathered, created, or reviewed for the verification of sales disclosure; forms, neighborhood delineations, land values, and/or any time adjustments to sales prices; and
- (6) All ratio studies and supporting documentation.

ARTICLE 26. CONTRACTOR EMPLOYEES - PROJECT MANAGER.

The Contractor shall assign by name an Indiana Level II Assessor/Appraiser as project manager. The assigned Indiana Level II Assessor/Appraiser shall be: Jeff Wuensch. The current contact information for the assigned person is: 2021 E. 52nd Street, #106, Indianapolis, IN 46205 (317) 753-0005.

ARTICLE 27. OFFICE SPACE.

The Assessor shall be responsible for providing the Contractor with office space or meeting facilities in connection with the execution of this contract. All other materials, equipment, supplies shall be supplied by the Contractor.

ARTICLE 28. INSURANCE AND WORKER'S COMPENSATION.

The Contractor shall carry automobile, public liability and worker's compensation insurance in the amounts as follows:

General (Professional) Liability Policy

Attachment 1

Nexus Group Deliverables:

1. **2006 Real Property Appeals.** Nexus will conduct informal and formal hearings with all taxpayers in regards to all 2006 real property appeals. This includes support at the PTABOA and IBOTR level as necessary. Nexus shall also prepare and appeal database for each such formal appeal allowing the Client to track progress and impact of appeals.
2. **Informal Meetings with Taxpayers.** Client shall offer informal meetings with the fifty (50) largest taxpayers in Fayette County. Client is responsible for notifying such taxpayers of their assessments, via Form 11 or similar notification. Nexus shall meet with all such taxpayers who request a meeting to review their real property assessment.

Apr 19 07 11:35a

Jeff Wuensch

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In witness whereof, the undersigned have executed this AGREEMENT effective as of the day and year first set forth above.

"Nexus"

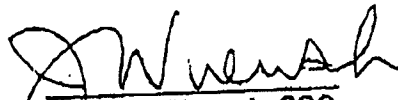
By:


Frank S. Kelly, President

Date

4-19-07

By:



Jeffrey S. Wuensch, COO

Date

4-19-07

"Client"

By:


The Honorable Kathleen Rhodes
Fayette County Assessor

Date

4/18/07

By:


Fayette County Commissioner

Date

4-17-2007

By:


Fayette County Commissioner

Date

April 17, 2007

By:


Fayette County Commissioner

Date

17-april-07

Fayette County Attorney:

By: _____

ATTESTED: Fayette County Auditor:

By: *Gael Hume*

Fayette County Auditor